

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LARRY GARCIA LUNA, §
§
Petitioner, §
VS. § CIVIL ACTION NO. C-06-00412
§
NATHANIEL QUARTERMAN, §
§
Respondent. §

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
ON RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

On February 14, 2007, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that petitioner's claims be denied on the merits and as time barred; or alternatively, that petitioner's claims that his trial counsel failed to adequately investigate and that his trial counsel was ineffective in providing him post-conviction assistance were not exhausted and should be dismissed without prejudice. The Memorandum and Recommendation further recommended that respondent's motion for summary judgment (D.E. 15) be granted and that petitioner be denied a certificate of appealability. A copy of the Memorandum and Recommendation was mailed to petitioner with a card to be returned indicating his receipt of the mailing. The card has not been returned by petitioner nor has the mailing been returned by the U.S. Post Office as undeliverable. Therefore, seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that respondent's motion for summary judgment is granted and petitioner's claims are denied on the merits and as time barred. Certificate of appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED this 16th day of May, 2007.



Janis Graham Jack
United States District Judge